



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Attn: Allowed Files

Karen M SLIMAK et al.

Group Art Unit: 1762

Serial No.: 09/927,062

Examiner: M. Barr

Filed: August 10, 2001

Confirmation No. 5284

For: PROCESS OF USING SODIUM SILICATE TO CREATE FIRE RETARDANT PRODUCTS

COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Statements of Reasons for Allowance, the examiner is mistaken that the claims of the present application are not deemed to be the same invention as that in the pending interference, currently pending before the Patent and Trademark Office Board of Patent Appeals and Interferences, as Interference No. 105,123.

Party Slimak has already moved the Board, pursuant to 37 C.F.R. §1.633(c) to redefine the interference subject matter, including a Motion to afford the opponent, who is an applicant, to add a claim or to designate a claim as corresponding to such count. Thus, the examiner is mistaken that the allowed claims should not be added to the pending Interference No. 105,123.

Moreover, although applicant successfully argued against a double patenting rejection (of an obviousness type) between the present claims and the claims involved in the interference, applicant's remarks noted that the "examiner relies on the 'description by the applicant' or the 'abstract' of the cited patents in order to sustain the rejection." However, as noted in the

remarks accompanying the amendment filed February 28, 2003, applicant argued that such parts of the cited applications were not pertinent to defining a double patenting rejection of the obvious type and the examiner's withdrawal of that rejection is an affirmation of that position. Accordingly, applicant believes that the examiner erred in not suspending prosecution of this application in order to add this application to the pending interference.

Respectfully submitted,



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TPP/mat
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